

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 01/17/01?
- b. The request was received on 01/17/02.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. TWCC 60 and Letter Requesting Dispute Resolution dated 02/25/02
 - b. HCFA 1450
 - c. EOB
 - d. Extensive list of reimbursements from other carriers
 - e. Medical Records
 - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC 60 and/or Response to a Request for Dispute Resolution
 - b. HCFA's
 - c. Audit summaries/EOB
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 02/27/02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 02/27/02. The response from the insurance carrier was received in the Division on 03/13/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit #3 of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor:

- a. The requestor, states in the correspondence dated 02/25/02, "...Carrier failed to provide an adequate response to the request for reconsideration. Based upon the initial denial presented by the Carrier, it is the requestor's position that the Carrier is required to pay the entire amount in dispute.

2. Respondent:

- a. The respondent, states in the correspondence dated 03/13/02, "...a) the requester failed to produce any credible evidence that its billing for the disputed procedures is fair and reasonable; b) the requester failed to prove its usual and customary fee for the service in dispute is fair and reasonable are consistent with Section 413.011(b); c) the Carrier's payment is consistent with fair and reasonable criteria established in Section 413.011(b) of the Texas Labor Code; and d) Medicare fair and reasonable reimbursement for similar or same services is below the Carrier's."

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible is 01/17/01.
2. The provider billed a total of \$12,437.23 on date of service 01/17/01.
3. The carrier reimbursed \$6,344.56, and the EOB has the denial "M – REDUCED TO FAIR AND REASONABLE.
4. The amount in dispute per the TWCC-60 is \$5,932.57; the difference between the billed amount and the reimbursement received is \$6,092.67.

V. RATIONALE

Medical Review Division's rationale:

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, "shall be reimbursed at a fair and reasonable rate..."

Section 413.011 (d) of the Texas Labor Code states, “Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.”

Commission Rule 133.304 (i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. It requires the carrier to explain how they arrived at what they consider fair and reasonable reimbursement. The carrier has submitted their methodology and though, the entire methodology may not necessarily be concurred in by the Medical Review Division, the requirements of the referenced Rule have been met.

Per the UB-92 submitted in the original packet, the Requestor billed the ICD-9 code of 719.4 which is JOINT PAIN-ANKLE. The medical reports indicate that the services were performed. The provider submitted an extended list of reimbursements from other carriers without any identifying ICD-9 codes showing similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf to demonstrate payments for fair and reasonable. Documentation is insufficient to determine if the charge of the Requestor is fair and reasonable. This does not conform to the criteria in Sec. 413.011 (d). Therefore, additional reimbursement **is not** recommended.

Due to the fact that there is no current fee guideline for ASCs, the Medical Review Division has to determine based on the parties’ submission of information, which party has provided the more persuasive evidence. The carrier has submitted reimbursement data to explain how they arrived at what they consider fair and reasonable reimbursement. The provider’s reimbursement data falls short of criteria identified in Sec. 413.011(d) of the Texas Labor Code. The provider has not shown that the amount of reimbursement received is not fair and reasonable or that the billed amount is fair and reasonable. Therefore, no additional reimbursement is recommended

The above Findings and Decision are hereby issued this 11th day of April 2002.

Michael Bucklin, LVN
Medical Dispute Resolution Officer
Medical Review Division

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers’ Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.